

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES,

v.

DECISION AND ORDER
11-CR-151

EFRAIN HIDALGO, ET AL.

Defendants.

This case was referred to Magistrate Judge H. Kenneth Schroeder for supervision of all pre-trial proceedings. The Superseding Indictment, filed on May 24, 2012, names 18 defendants and sets forth various racketeering and narcotics conspiracies beginning in or before 2000 and continuing until in or about 2012.

On September 10, 2012, the Government filed a motion requesting that the Court order all defendants to provide buccal swabs to law enforcement for analysis by the Erie County Central Police Services Forensic Laboratory. Four defendants, including Efrain Hidalgo and Luis Medina, filed responses in opposition to the Government's request. On November 14, 2012, Magistrate Judge Schroeder issued a Decision and Order finding sufficient probable cause to require all defendants, including Hidalgo and Medina, to provide buccal swabs as requested in the Government's motion.

Defendant Hidalgo and Defendant Medina each filed objections to Magistrate Judge Schroeder's Decision and Order. The Government filed

responses and the final reply was filed on December 7, 2012. The Court heard oral argument, with respect to both defendants, on January 10, 2013.

Pursuant to 28 U.S.C. §636(b)(1)(A), the District Court “may reconsider any pretrial matter under this subparagraph (A), where it has been shown that the magistrate’s order is clearly erroneous or contrary to law.” *Id.* The Court has carefully reviewed Magistrate Judge Schroeder’s Decision and Order and the submissions of the parties. Upon such review and after hearing argument from counsel for the Government as well as counsel for defendant Hidalgo and counsel for defendant Medina, the Court finds that Magistrate Judge Schroeder’s Decision and Order is neither clearly erroneous nor contrary to law.

Accordingly, the Court affirms the Decision and Order in its entirety and the case is referred to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

s/ Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: January 25, 2013